

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

CAROL SUE KUHN, et al,

Plaintiffs,

v.

CRIMINAL ACTION NO. 5:03CV3
(Judge Keeley)

WYETH, et al,

Defendants.

ORDER GRANTING PLAINTIFF'S MOTION TO DISMISS
CASE WITHOUT PREJUDICE PURSUANT TO
FED.R.CIV.P. 41(a)(2)

On August 14, 2007, the Court conducted a hearing on the named plaintiff, Carol Sue Kuhn's, motion to voluntarily dismiss this putative class action without prejudice pursuant to Fed.R.Civ.P. 41(a)(2)¹. (Doc. No. 21.) For the reasons stated on the record of that hearing, the Court **GRANTED** the motion and **DISMISSED** this case **WITHOUT PREJUDICE** from the Court's docket. Further, in its discretion under the rule, the Court conditioned the dismissal on Kuhn's binding agreement not to re-file this action in any court.

It is so **ORDERED**.

¹ Pursuant to Fed.R.Civ.P. 41(a)(2), following the filing of an answer or motion for summary judgment by the adverse party, " an action shall not be dismissed at the plaintiff's instance save upon order of the court and upon such terms and conditions as the court deems proper Unless otherwise specified in the order, a dismissal under this paragraph is without prejudice."

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The Clerk is directed to transmit copies of this Order to
counsel of record.

DATED: August 15, 2007.

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE